

TERRY MINOR SMITH

16th JUDICIAL DISTRICT COURTVS. NO. **134314** Div. "D"

PARISH OF St. Mary

DOLLAR GENERAL

STATE OF LOUISIANA

PETITION IN SUIT FOR DAMAGES

The petition of **TERRY MINOR SMITH**, a resident of the full age of majority of the Parish of St. Mary, State of Louisiana, hereinafter simply referred to as "Petitioner", respectfully represents that:

I.

The Defendants is **DOLLAR GENERAL**, a foreign corporation authorized to do and doing business in St. Mary Parish, Louisiana.

II.

The Defendant is liable unto your Petitioner for a reasonable sum, for the following reasons, to-wit:

III.

On or about May 25, 2019, Petitioner, **TERRY MINOR SMITH**, while shopping at the premises known as **DOLLAR GENERAL** in Baldwin, Louisiana, leased, operated and/or controlled by defendant, **DOLLAR GENERAL**, tripped and fell on a crack in the concrete of the store, sustaining serious injury to her person, embarrassment, pain and mental anguish. This accident resulted in serious and permanent injuries to Petitioner as more fully set forth below.

IV.

On the aforesaid date, the flooring where Petitioner fell in the premises was dangerous and hazardous. The cracked concrete was allowed to remain in a hazardous condition.

V.

The area where Petitioner tripped and fell is an area where the personnel and employees of **DOLLAR GENERAL** can easily observe. Despite the fact that the said concrete was hazardous, Defendant, its employees and agents took no action to properly repair it until after Petitioner had tripped and fell.

EXHIBIT

tabbles

VI.

The management and/or employees of **DOLLAR GENERAL** were fully aware of the defective condition of the concrete, and the fact that it was not properly repaired. In spite of this knowledge and these hazardous circumstances, Defendant took no action whatsoever to prevent the injuries sustained by Petitioner in this matter.

VII.

Petitioner avers that the sole proximate cause of the hereinabove described accident is as a result of the negligence and acts of omission of the Defendant, **DOLLAR GENERAL**, which negligence and omissions consist of, but are not limited to, the following, to-wit:

- (A) In carelessly and negligently failing to provide protection from a reasonably foreseeable hazard and to maintain the premises in a reasonably safe condition at all times;
- (B) In carelessly and negligently failing to provide a safe place for Petitioner to walk while in the premises;
- (C) In carelessly and negligently failing to warn Petitioner of the condition of the concrete of the premises;
- (D) In carelessly and negligently failing to have the concrete safe;
- (E) In carelessly and negligently failing to exercise ordinary care and prudence to keep the concrete in a reasonable safe condition for its customers;
- (F) In carelessly and negligently failing to employ reasonable inspection and clean-up procedures to see that the concrete was free from extraneous substances;
- (G) In carelessly and negligently allowing the concrete of the subject premises to remain hazardous, despite knowledge by Defendant;
- (H) In carelessly and negligently not taking the necessary care, to provide a safe place for their customers despite full knowledge of the existence of the above-mentioned and other hazardous circumstances and due to the carelessness and lack of proper upkeep of the building in general.

VIII.

Petitioner alleges that at all times pertinent hereto, **TERRY MINOR SMITH**, did nothing to contribute to the causation of this accident and injuries sustained as described herein.

IX.

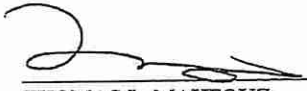
Petitioner, **TERRY MINOR SMITH**, shows that as a result of the negligence, recklessness, and acts of omission of the Defendant, she has suffered damages hereinbelow set forth in the following

non-exclusive particulars, to-wit:

- (a) Past, present, and future medical expenses;
- (b) Past, present, and future pain and suffering;
- (c) Past, present, and future mental anguish, distress, and emotional upset;
- (d) Incidental and medical expenses incurred as a result of this accident;
- (e) Damage to her body, including neck, back, spinal column, bruises and contusions about the body, knees;
- (f) Loss of wages and earning capacity; past, present and future; and,
- (g) Such other damages as will be shown at the time of trial of this matter.

WHEREFORE, Petitioner prays that Defendant be served with a copy of this petition and cited to answer the same within the legal delays allowed by law, then, after lapse of all legal delays and due proceedings had, there be judgment herein in favor of the Petitioner, **TERRY MINOR SMITH**, and against the defendant, **DOLLAR GENERAL**, for all amounts to which Petitioners are entitled to recover together with legal interest thereon from date of judicial demand until paid and for all costs of these proceedings. PETITIONER FURTHER PRAYS for all other general and equitable relief due under the circumstances.

BY ATTORNEY FOR PETITIONER:

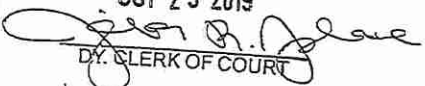

 THOMAS L. MAHFOUZ NO. 8877
 Mahfouz Law Firm, L.L.C.
 POST OFFICE DRAWER 2526
 MORGAN CITY, LOUISIANA 70381-2526
 985-384-1833

PLEASE SERVE DEFENDANT:

Dollar General
 through its agent for service of process

RECEIVED AND FILED

OCT 25 2019


 CLERK OF COURT

CITATION

TERRYMINORSMITH

Vs. No. 134314 Div "D"

DOLLARGENERAL



STATE OF LOUISIANA

16th JUDICIAL DISTRICT COURT

PARISH OF ST. MARY

To: DOLLAR GENERAL, THROUGH ITS AGENT, NORTHWEST REGISTERED
AGENT, LLC, 201 RUE BEAUREGARD, STE. 202, LAFAYETTE, LA 70508

You are hereby cited to comply with the demand contained in the petition, a certified copy of which accompanies this citation or to file your answer or other pleading to said petition in the office of the Clerk of the 16th Judicial District Court in the St. Mary Parish Court House in the City of Franklin in said Parish within fifteen (15) days after the service hereof. Your failure to comply herewith will subject you to the penalty of entry of default judgment against you.

WITNESS MY HAND AND OFFICIAL SEAL OF OFFICE AT FRANKLIN,
LOUISIANA, NOVEMBER 4, 2019.

CLIFF DRESSEL
Clerk of Court
St. Mary Parish, Louisiana
16th Judicial District Court

A handwritten signature in cursive script, appearing to read "Jennifer R. Malone".

Deputy Clerk of Court

SPACE BELOW FOR SHERIFF'S RETURN

FOOTER AREA

Case Number: 134314 Transaction Date: 11/4/2019 Seq: 47 Page Sequence: 1

Page 1 of 1

CLIFF DRESSEL
CLERK, ST. MARY PARISH
P. O. DRAWER 1231
FRANKLIN, LOUISIANA 70538

Date Mailed: NOVEMBER 4, 2019

TO:
LAFAYETTE PARISH SHERIFF
P.O. DRAWER 3508
LAFAYETTE, LA 70502-

TERRY MINOR SMITH

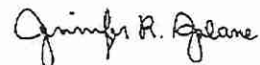
Vs. NO. 134314 DIV D

DOLLAR GENERAL

The following listed items have been issued for service. After service is made, please send your return stating the type of service along with your statement of cost. If service can not be made, please state reason. Thank you for your prompt attention.

CITATION AND PETITION issued for service on: DOLLAR GENERAL
THROUGH ITS AGENT, NORTHWEST REGISTERED AGENT, LLC,
201 RUE BEAUREGARD; STE. 202, LAFAYETTE, LA 70508

CLIFF DRESSEL
Clerk of Court
St. Mary Parish, Louisiana
16th Judicial District Court


Deputy Clerk of Court

Page 1 of 1

LOUISIANA CIVIL CASE REPORTING
Civil Case Cover Sheet - LA. R.S. 13:4688 and
Part G, §13, Louisiana Supreme Court General Administrative Rules

This civil case cover sheet shall be completed by counsel for the petitioner, counsel's authorized representative, or by the self-represented litigant (if not represented by counsel) and submitted with the original petition filed with the court. The information should be the best available at the time of filing. This information does not constitute a discovery request, response or supplementation, and is not admissible at trial.

Suit Caption:

Terry Minor Smith
vs.
Dollar General

Court: 16th JDC Docket Number: 134314Parish of Filing: St. Mary Filing Date: OCT 25 2019Name of Lead Petitioner's Attorney: Thomas L. Mahfouz

Name of Self-Represented Litigant: _____

Number of named petitioners: 1 Number of named defendants: 1

Type of Lawsuit: Please check the categories which most appropriately apply to this suit
 (no more than 3 categories should be checked):

<input type="checkbox"/> Auto: Personal Injury	<input type="checkbox"/> Auto: Property Damage
<input type="checkbox"/> Auto: Wrongful Death	<input type="checkbox"/> Auto: Uninsured Motorist
<input type="checkbox"/> Asbestos: Property Damage	<input type="checkbox"/> Asbestos: Personal Injury/Death
<input type="checkbox"/> Product Liability	<input checked="" type="checkbox"/> Premise Liability
<input type="checkbox"/> Intentional Bodily Injury	<input type="checkbox"/> Intentional Property Damage
<input type="checkbox"/> Intentional Wrongful Death	<input type="checkbox"/> Unfair Business Practice
<input type="checkbox"/> Business Tort	<input type="checkbox"/> Fraud
<input type="checkbox"/> Defamation	<input type="checkbox"/> Professional Negligence
<input type="checkbox"/> Environmental Tort	<input type="checkbox"/> Medical Malpractice
<input type="checkbox"/> Intellectual Property	<input type="checkbox"/> Toxic Tort
<input type="checkbox"/> Legal Malpractice	<input type="checkbox"/> Other Tort (describe below)
<input type="checkbox"/> Other Professional Malpractice	<input type="checkbox"/> Redhibition
<input type="checkbox"/> Maritime	<input type="checkbox"/> Class action (nature of case)
<input type="checkbox"/> Wrongful Death	
<input type="checkbox"/> General Negligence	

Please briefly describe the nature of the litigation in one sentence of additional detail:

See Petitioner

Following the completion of this form by counsel, counsel's representative, or by the self-represented litigant, this document will be submitted to the Office of the Judicial Administrator, Supreme Court of Louisiana, by the Clerk of Court.

Name, address and contact information of person completing form:

Name Thomas L. Mahfouz

Signature _____

Post Office Box 2526, Morgan City, LA 70381

Address _____

Phone number: 985-384-1833E-mail address: krista@teche.net

Case Number: 134314 Transaction Date: 11/5/2019 Seq: 43 Page Sequence: 1

NOV 05 2019

NOTICE OF SERVICE

TERRY MINOR SMITH

Vs. No. 134314 Div "D"

DOLLAR GENERAL



STATE OF LOUISIANA

16th JUDICIAL DISTRICT COURT

PARISH OF ST. MARY

THOMAS L. MAHFOUZ
MAHFOUZ LAW FIRM, LLC
P.O. BOX 2526
MORGAN CITY, LA 70381-2526

Pleading Served: CITATION AND PETITION

Party Served: DOLLAR GENERAL

Date Served: WEDNESDAY, NOVEMBER 06, 2019

Type of Service: PERSONAL - HEIDI ROMENE

Notified on: November 21, 2019

CLIFF DRESSEL
Clerk of Court
St. Mary Parish, Louisiana
16th Judicial District Court

A handwritten signature in cursive script, reading "Jennifer R. Glane", is positioned above the title "Deputy Clerk of Court".

Deputy Clerk of Court

FOOTER AREA

Case Number: 134314 Transaction Date: 11/21/2019 Seq: 42 Page Sequence: 1

CITATION

TERRY MINOR SMITH
Vs. No. 134314 Div "D"
DOLLAR GENERAL



STATE OF LOUISIANA
16th JUDICIAL DISTRICT COURT
PARISH OF ST. MARY

To: DOLLAR GENERAL, THROUGH ITS AGENT, NORTHWEST REGISTERED
AGENT, LLC, 201 RUE BEAUREGARD, STE. 202, LAFAYETTE, LA 70508

You are hereby cited to comply with the demand contained in the petition, a certified copy of which accompanies this citation or to file your answer or other pleading to said petition in the office of the Clerk of the 16th Judicial District Court in the St. Mary Parish Court House in the City of Franklin in said Parish within fifteen (15) days after the service hereof. Your failure to comply herewith will subject you to the penalty of entry of default judgment against you.

WITNESS MY HAND AND OFFICIAL SEAL OF OFFICE AT FRANKLIN,
LOUISIANA, NOVEMBER 4, 2019.

L.P.S.O. Badge#

ACTUAL SERVICE MILEAGE: 6.0

CLIFF DRESSSEL
Clerk of Court
St. Mary Parish, Louisiana
16th Judicial District Court

Griffin R. Delane

Deputy Clerk of Court



SPACE BELOW FOR SHERIFF'S RETURN

SHERIFF'S RETURN
LAFAYETTE PARISH SHERIFF'S OFFICE

DATE SERVED 11-6 1337.20 19
SERVED Hand Delivered
PERSONAL ()
DOMICILIARY ON ()
DEPARTMENTAL ON ()
UNABLE TO LOCATE () MOVED ()
OTHER REASON FOR UTI ()
COST: SERVICE 30 MILEAGE 3.48 TOTAL 33.48
DEPUTY [Signature]

RECEIVED

NOV 13 2019

[ORIGINAL]

CLIFF DRESSSEL CLERK OF COURT
ST. MARY PARISH, LA

Case Number: 134314 Transaction Date: 11/13/2019 Seq: 41 Page Sequence: 1

TERRY MINOR SMITH

16th JUDICIAL DISTRICT COURT

VS. NO. 134314 D

PARISH OF St. Mary

DOLLAR GENERAL

STATE OF LOUISIANA


**PLAINTIFF'S FIRST SUPPLEMENTAL
AND AMENDING PETITION**

The First Supplemental and Amending Petition of **TERRY MINOR SMITH**, Plaintiff herein, who desires to supplement and amend his Original Petition filed herein, in the following respects:

1. By amending the Petition in all places where the defendant's name is referred to as "DOLLAR GENERAL", to read "DOLGENCORP, LLC d/b/a DOLLAR GENERAL."

WHEREFORE, Plaintiff, reiterating the prayer of his original Petition as set forth in length herein, prays that he be allowed to file this First Supplemental and Amending Petition, and that Defendants be served with a copy of this First Supplemental and Amending Petition and cited to answer same within the legal delays allowed by law, then, after the lapse of all legal delays and due proceedings had that there be judgment herein in favor of Plaintiff, **TERRY MINOR SMITH**, and against Defendants, **DOLGENCORP, LLC d/b/a DOLLAR GENERAL**, in a reasonable amount to compensate them for the damages which they have sustained herein. Plaintiff further prays for such other legal and equitable relief.

BY ATTORNEY FOR PLAINTIFF:


 THOMAS L. MAHFOUZ #8877
 Mahfouz Law Firm, L.L.C.
 1201 Brashear Avenue, Suite 201
 Post Office Box 2526
 Morgan City, LA 70381
 (985) 384-1833

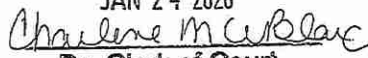
PLEASE SERVE DEFENDANT WITH THE ORIGINAL PETITION AND FIRST SUPPLEMENTAL AND AMENDING PETITION:

DOLGENCORP, LLC d/b/a DOLLAR GENERAL

through its agent for service of process,
 Corporation Service Company
 501 Louisiana Avenue
 Baton Rouge, LA 70802

RECEIVED AND FILED

JAN 24 2020


 Dy. Clerk of Court

SUPPLEMENTAL CITATION

TERRYMINORSMITH

Vs. No. 134314 Div "D"

DOLGENCORP LLC DBA, ET AL



STATE OF LOUISIANA

16th JUDICIAL DISTRICT COURT

PARISH OF ST. MARY

To: DOLGENCORP LLC DBA THROUGH ITS REGISTERED AGENT
CORPORATION SERVICE COMPANY 501 LOUISIANA AVENUE BATON ROUGE
LA 70802

You are hereby cited to comply with the demand contained in the FIRST supplemental and amended petition, a certified copy of which accompanies this citation, or to file your answer or other pleading to said supplemental and amended petition in the office of the Clerk of the 16th Judicial District Court in the St. Mary Parish Court House in the City of Franklin in said Parish within the time remaining for pleading to the original petition heretofore served upon you or within TEN (10) days after service hereof, whichever period is longer. Your failure to comply herewith will subject you to the penalty of entry of default judgment against you.

WITNESS MY HAND AND OFFICIAL SEAL OF OFFICE AT FRANKLIN,
LOUISIANA, JANUARY 27, 2020.

CLIFF DRESSEL
Clerk of Court
St. Mary Parish, Louisiana
16th Judicial District Court

Deputy Clerk of Court

SPACE BELOW FOR SHERIFF'S RETURN

FOOTER AREA

Case Number: 134314 Transaction Date: 1/27/2020 Seq: 38 Page Sequence: 1

Page 1 of 1

CLIFF DRESSEL
CLERK, ST. MARY PARISH
P. O. DRAWER1231
FRANKLIN, LOUISIANA 70538

Date Mailed: JANUARY 27, 2020

TO:
EAST BATON ROUGE PARISH SHERIFF
P. O. BOX 3277
BATON ROUGE, LA 70821-

TERRY MINOR SMITH

Vs. NO. 134314 DIV D

DOLGENCORP LLC DBA, ET AL

The following listed items have been issued for service. After service is made, please send your return stating the type of service along with your statement of cost. If service can not be made, please state reason. Thank you for your prompt attention.

Supplemental Citation and Petition issued for service on:
DOLGENCORP LLC DBA THROUGH ITS REGISTERED AGENT
CORPORATION SERVICE COMPANY 501 LOUISIANA AVENUE
BATON ROUGE LA 70802

CLIFF DRESSEL
Clerk of Court
St. Mary Parish, Louisiana
16th Judicial District Court


Deputy Clerk of Court

NOTICE OF SERVICE

TERRY MINOR SMITH

Vs. No. 134314 Div "D"

DOLGENCORP LLC DBA, ET AL



STATE OF LOUISIANA

16th JUDICIAL DISTRICT COURT

PARISH OF ST. MARY

THOMAS L. MAHFOUZ
MAHFOUZ LAW FIRM, LLC
P.O. BOX 2526
MORGAN CITY, LA 70381-2526

Pleading Served: SUPPLEMENTAL CITATION WITH FIRST SUPPLEMENTAL AND AMENDED PETITION

Party Served: DOLGENCORP LLC

Date Served: FRIDAY, FEBRUARY 07, 2020

Type of Service: PERSONAL

Notified on: February 14, 2020

CLIFF DRESSEL

Clerk of Court

St. Mary Parish, Louisiana

16th Judicial District Court

A handwritten signature in cursive script, reading "Michelle B. Anderson", is written over a horizontal line.

Deputy Clerk of Court

FOOTER AREA

Case Number: 134314 Transaction Date: 2/14/2020 Seq: 34 Page Sequence: 1

SUPPLEMENTAL CITATION

TERRY MINOR SMITH

Vs. No. 134314 Div "D"

DOLGENCORP LLC DBA, ET AL



STATE OF LOUISIANA

16th JUDICIAL DISTRICT COURT

PARISH OF ST. MARY

To: DOLGENCORP LLC DBA THROUGH ITS REGISTERED AGENT
CORPORATION SERVICE COMPANY 501 LOUISIANA AVENUE BATON ROUGE
LA 70802

You are hereby cited to comply with the demand contained in the FIRST supplemental and amended petition, a certified copy of which accompanies this citation, or to file your answer or other pleading to said supplemental and amended petition in the office of the Clerk of the 16th Judicial District Court in the St. Mary Parish Court House in the City of Franklin in said Parish within the time remaining for pleading to the original petition heretofore served upon you or within TEN (10) days after service hereof, whichever period is longer. Your failure to comply herewith will subject you to the penalty of entry of default judgment against you.

WITNESS MY HAND AND OFFICIAL SEAL OF OFFICE AT FRANKLIN,
 LOUISIANA, JANUARY 27, 2020.

CLIFF DRESSEL
 Clerk of Court
 St. Mary Parish, Louisiana
 16th Judicial District Court

Deputy Clerk of Court

SPACE BELOW FOR SHERIFF'S RETURN

I made service on the named party through the
 CORPORATION SERVICE COMPANY
 FEB 07 2020
 by tendering a copy of this document to:
☒ D.Y. E. CUMMINS #1155
 Deputy Sheriff, Parish of East Baton Rouge, LA

RECEIVED

FEB 14 2020

CLIFF DRESSEL CLERK OF COURT
 ST. MARY PARISH, LA

[ORIGINAL]

FAX CONFIRMATION

TERRYMINORSMITH

Vs. No. 134314 Div "D"

DOLGENCORP LLC DBA, ET AL



STATE OF LOUISIANA

16th JUDICIAL DISTRICT COURT

PARISH OF ST. MARY

YOU ARE HEREBY INFORMED BY THIS FAX CONFIRMATION NOTICE THAT THE FOLLOWING HAS BEEN FILED BY FACSIMILE.

DATE FAX TRANSMISSION RECEIVED: FEBRUARY 18, 2020

DESCRIPTION OF PLEADING: EXCEPTIONS OF NO CAUSE OF ACTION AND LACK OF PROCEDURAL CAPACITY, MEMO IN SUPPORT AND ORDER

FILED ON BEHALF OF: DOLGENCORP, LLC

ATTORNEY SIGNING PLEADING: DANIEL R. ESTRADA

This is to acknowledge that the above described facsimile transmission was received and filed on the date shown above as per L.A.R.S. 13:850.

The original pleading is to be forwarded within seven (7) days of this receipt together with the \$5.00 transmission fee; \$15.00 fee for this receipt; the correct filing fee to cover the cost of filing and recording the facsimile copy as well as the original pleading and any balance of costs due. When the original pleading is received, the file mark will indicate the actual date it is received.

The record will contain the facsimile pleading, this receipt and the original pleading.

Receipt Acknowledged

A handwritten signature in cursive script, appearing to read "Jennifer R. Aplane".

Deputy Clerk of Court

Receipt faxed to number: 504-524-7887

Date receipt faxed: February 18, 2020

Fax Transmission Fee	\$5.00
Fax Receipt Fee	\$15.00
Filing Fee for Faxed Pleading(s)	\$26.00
Filing Fee for Original Pleading (s)	\$200.00
TOTAL AMOUNT DUE	\$246.00

FOOTER AREA

Case Number: 134314 Transaction Date: 2/18/2020 Seq: 29 Page Sequence: 1

TERRY MINOR SMITH

CIVIL DOCKET NO. 134314 DIV. D

VERSUS

16TH JUDICIAL DISTRICT COURT
PARISH OF ST. MARY

DOLLAR GENERAL

STATE OF LOUISIANA

FILED: FEB 18 2020

JENNIFER R. SPLANE


DEPUTY CLERK

**EXCEPTIONS OF NO CAUSE OF ACTION AND LACK OF PROCEDURAL
CAPACITY ON BEHALF OF DOLGENCORP, LLC**

Now into court, through undersigned counsel, comes Defendant, Dolgencorp, LLC, improperly and incorrectly referred to as Dolgencorp, LLC d/b/a Dollar General, who asserts the Exceptions of No Cause of Action and Lack of Procedural Capacity as more fully explained in the attached memorandum.

Wherefore, Dolgencorp, LLC, prays that its Exceptions be maintained, and that the Plaintiff's Petition for Damages, amendments and claims be dismissed at Plaintiff's sole cost.

Respectfully Submitted:

COURINGTON, KIEFER, SOMMERS,
MARULLO & MATHERNE, L.L.C.
KAYE N. COURINGTON (LSBA #18582)
DANIEL R. ESTRADA (LSBA #26632)
616 Girod Street
New Orleans, LA 70130
Telephone: (504) 524-5510
Facsimile: (504) 524-7887
ATTORNEYS FOR DOLGENCORP, LLC**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above and foregoing has been served upon counsel for all parties herein by depositing same in the United States mail, postage prepaid, or via telefax transmission, this 18th day of February, 2020.


DANIEL R. ESTRADA

RECEIVED AND FILED

FEB 18 2020


Dy. Clerk of Court

TERRY MINOR SMITH

CIVIL DOCKET NO. 134314 DIV. D

VERSUS

16TH JUDICIAL DISTRICT COURT
PARISH OF ST. MARY

DOLLAR GENERAL

STATE OF LOUISIANA

FILED: FEB 18 2020

JENNIFER R. SPLANE
DEPUTY CLERK

**MEMORANDUM IN SUPPORT OF EXCEPTIONS OF NO
CAUSE OF ACTION AND LACK OF PROCEDURAL
CAPACITY ON BEHALF OF DOLGENCORP, LLC**

MAY IT PLEASE THE COURT:

Now into Court, through undersigned counsel, comes Dolgencorp, LLC, improperly and incorrectly referred to as Dolgencorp, LLC d/b/a Dollar General, who submits the following Memorandum in Support of its Exceptions.

I. FACTUAL AND PROCEDURAL BACKGROUND

On October 25, 2019, the Plaintiff, Terry Minor Smith, filed a Petition for Damages alleging she was involved in a trip and fall incident at a Dollar General Store located at 17700 Hwy. 182 Baldwin, Louisiana. Named as Defendant is a non-existent, improper and incorrect entity, Dollar General. On January 24, 2020, in a First Supplemental and Amending Petition for Damages, the Plaintiff amended the Petition for Damages to read Dolgencorp, LLC d/b/a Dollar General in place of Dollar General. However, Dolgencorp, LLC d/b/a Dollar General is also a non-existent entity. Further, Dolgencorp, LLC, which is the proper name of this entity, is an improper and incorrect Defendant as it is not the owner and operator of the Dollar General store located at 17700 Hwy. 182 Baldwin, Louisiana. Rather, DG Louisiana, LLC is the proper Defendant as this entity owns and operates the Dollar General store.

Accordingly, Dolgencorp, LLC asserts the following Exception:

II. PEREMPTORY EXCEPTION OF NO CAUSE OF ACTION

Dolgencorp, LLC asserts the Peremptory Exception of No Cause of Action as the Plaintiff's Petition for Damages does not correctly name the proper party Defendant. Under Louisiana law:

A cause of action, when used in the context of the peremptory exception, is defined as the operative facts that give rise to the plaintiff's right to judicially assert the action against the defendant. Everything on Wheels Subaru, Inc. v. Subaru South, Inc., 616 So.2d 1234, 1238 (La. 1993). The function of an exception that raises the objection of no cause of action is to test the legal sufficiency of the petition by determining whether the law affords a remedy on the facts alleged in the petition. Ramey v. DeCaire, 03-1299 (La. 3/19/04), 869

So.2d 114, 118. No evidence may be introduced to support or controvert the exception raising the objection of no cause of [Pg 7] action. LSA-C.C.P. art. 931. All facts pled in the petition must be accepted as true. Rebardi v. Crewboats, Inc., 04-0641 (La. App. 1st Cir. 2/11/05), 906 So.2d 455, 457. However, the jurisprudence recognizes an exception to this rule, which allows the court to consider [**11] evidence which is admitted without objection to enlarge the pleadings. Stephenson v. Nations Credit Fin. Services Corp., 98-1688 (La. App. 1st Cir. 9/24/99), 754 So.2d 1011, 1021. In reviewing the petition to determine whether a cause of action has been stated, the court must, if possible, interpret it to maintain the cause of action.

Here, the Plaintiff improperly and incorrectly named as Defendant a non-existent entity, Dolgencorp, LLC d/b/a Dollar General. Given that this this entity does not exist, Plaintiff does not have a cause of action.

Additionally, Dolgencorp, LLC, which is the proper name of this entity, is an improper and incorrect Defendant as it is not the owner and operator of the Dollar General store located at 17700 Hwy. 182 Baldwin, Louisiana where the Plaintiff alleges her incident occurred. In sum, it has nothing to do with the store. Rather, DG Louisiana, LLC is the proper Defendant as this entity owns and operates the Dollar General store. Therefore, the Plaintiff cannot have a cause of action against Dolgencorp, LLC based on these facts and information.

III. DILATORY EXCEPTION OF LACK OF PROCEDURAL CAPACITY

Dolgencorp, LLC asserts the Dilatory Lack of Procedural Capacity as the Plaintiff's Petition for Damages names a non-existent entity as Defendant who does not have the procedural capacity to be sued. Dolgencorp, LLC d/b/a Dollar General does not have the procedural capacity to be sued as it does not exist.

"Lack of procedural capacity is a dilatory exception which tests a party's legal capacity to bring an action or have one brought against it." Wells v. Fandal, 13-620 (La.App. 5th Cir. 2014) 136 So.3d 83, 90. Further, La. Civ. Code of Pro. Art. 739 states, "... a domestic or foreign limited liability company, or a domestic, foreign or alien insurer has the procedural capacity to be sued in its corporate or company name."

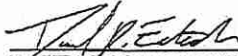
Further, the proper and correct name for the owner and operator of the alleged store where the Plaintiff's incident allegedly took place is DG Louisiana, LLC and not Dolgencorp, LLC. Therefore, Dolgencorp, LLC does not have the procedural capacity to be sued as it is not the owner or operator of the Dollar General store.

IV. CONCLUSION

For the aforementioned reasons, Dolgencorp, LLC, improperly and incorrectly referred to as Dolgencorp, LLC d/b/a Dollar General, prays that these Exceptions be maintained and that Plaintiff's Petition for Damages, amendments and claims be dismissed at Plaintiff's sole cost.

Respectfully Submitted:

COURINGTON, KIEFER, SOMMERS,
MARULLO & MATHERNE, L.L.C.



KAYE N. COURINGTON (LSBA #18582)

DANIEL R. ESTRADA (LSBA #26632)

616 Girod Street

New Orleans, LA 70130

Telephone: (504) 524-5510

Facsimile: (504) 524-7887

ATTORNEYS FOR DOLGENCORP, LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has been served upon counsel for all parties herein by depositing same in the United States mail, postage prepaid, or via telefax transmission, this 18th day of February, 2020.


DANIEL R. ESTRADA

RECEIVED AND FILED

FEB 18 2020


Dy. Clerk of Court

{00518349.DOCX;2}

3

TERRY MINOR SMITH

CIVIL DOCKET NO. 134314 DIV. D

VERSUS

16TH JUDICIAL DISTRICT COURT
PARISH OF ST. MARY

DOLLAR GENERAL

STATE OF LOUISIANA

FILED: FEB 18 2020

JENNIFER R. SPLANE

DEPUTY CLERK

ORDER*Considering the foregoing Exceptions:*

IT IS HEREBY ORDERED that the plaintiff, Terry Minor Smith, appear and show cause on the _____ of _____, 2020 at _____ o' clock _____ m., why the Exceptions filed by Defendant, Dolgencorp, LLC, improperly and incorrectly referred to as Dolgencorp, LLC d/b/a Dollar General, should not be maintained and that the Plaintiff's Petition for Damages, amendments and claims be dismissed at Plaintiff's sole cost.

_____, Louisiana this _____ day of _____, 2020.

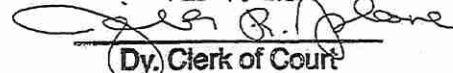
JUDGE JAMES MCCLELLAND DIV. D

PLEASE SERVE:

Terry Minor Smith
Through her Attorney of record:
Thomas L. Mahfouz
Mahfouz Law Firm, L.L.C.
1201 Brashear Ave., FL. 2, Ste. 201
Morgan City, LA 70380

RECEIVED AND FILED

FEB 18 2020


Dy. Clerk of Court

{00518356.DOCX;1}

Case Number: 134314 Transaction Date: 2/18/2020 Seq: 30 Page Sequence: 1

SUPPLEMENTAL CITATION

TERRY MINOR SMITH

Vs. No. 134314 Div "D"

DOLGENCORP LLC DBA, ET AL



STATE OF LOUISIANA

16th JUDICIAL DISTRICT COURT

PARISH OF ST. MARY

**To: DOLGENCORP LLC DBA THROUGH ITS REGISTERED AGENT
CORPORATION SERVICE COMPANY 501 LOUISIANA AVENUE BATON ROUGE
LA 70802**

You are hereby cited to comply with the demand contained in the FIRST supplemental and amended petition, a certified copy of which accompanies this citation, or to file your answer or other pleading to said supplemental and amended petition in the office of the Clerk of the 16th Judicial District Court in the St. Mary Parish Court House in the City of Franklin in said Parish within the time remaining for pleading to the original petition heretofore served upon you or within TEN (10) days after service hereof, whichever period is longer. Your failure to comply herewith will subject you to the penalty of entry of default judgment against you.

WITNESS MY HAND AND OFFICIAL SEAL OF OFFICE AT FRANKLIN,
LOUISIANA, JANUARY 27, 2020.

CLIFF DRESSEL
Clerk of Court
St. Mary Parish, Louisiana
16th Judicial District Court

Charlene M. Ubbere

Deputy Clerk of Court

SPACE BELOW FOR SHERIFF'S RETURN

I made service on the named party through the
CORPORATION SERVICE COMPANY

FEB 07 2020

by tendering a copy of this document to:

DY. E. CUMMINS #1155

Deputy Sheriff, Parish of East Baton Rouge, LA

RECEIVED

FEB 14 2020

CLIFF DRESSEL CLERK OF COURT
ST. MARY PARISH, LA

[ORIGINAL]

TERRY MINOR SMITH

CIVIL DOCKET NO. 134314 DIV. D

VERSUS

16TH JUDICIAL DISTRICT COURT
PARISH OF ST. MARY

DOLLAR GENERAL

STATE OF LOUISIANA

FILED: FEB 21 2020

MICHELLE FREDERICK
DEPUTY CLERK

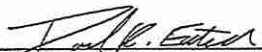
**EXCEPTIONS OF NO CAUSE OF ACTION AND LACK OF PROCEDURAL
CAPACITY ON BEHALF OF DOLGENCORP. LLC**

Now into court, through undersigned counsel, comes Defendant, Dolgencorp, LLC, improperly and incorrectly referred to as Dolgencorp, LLC d/b/a Dollar General, who asserts the Exceptions of No Cause of Action and Lack of Procedural Capacity as more fully explained in the attached memorandum.

Wherefore, Dolgencorp, LLC, prays that its Exceptions be maintained, and that the Plaintiff's Petition for Damages, amendments and claims be dismissed at Plaintiff's sole cost.

Respectfully Submitted:

COURINGTON, KIEFER, SOMMERS,
MARULLO & MATHERNE, L.L.C.

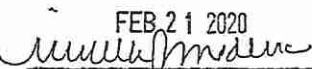

KAYE N. COURINGTON (LSBA #18582)
DANIEL R. ESTRADA (LSBA # 26632)
616 Girod Street
New Orleans, LA 70130
Telephone: (504) 524-5510
Facsimile: (504) 524-7887
ATTORNEYS FOR DOLGENCORP, LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has been served upon counsel for all parties herein by depositing same in the United States mail, postage prepaid, or via telefax transmission, this 18th day of February, 2020.


DANIEL R. ESTRADA

RECEIVED AND FILED

FEB 21 2020

Dy. Clerk of Court

TERRY MINOR SMITH

CIVIL DOCKET NO. 134314 DIV. D

VERSUS

16TH JUDICIAL DISTRICT COURT
PARISH OF ST. MARY

DOLLAR GENERAL

STATE OF LOUISIANA

FILED: FEB 21 2020

MICHELLE FREDERICK

DEPUTY CLERK

ORDER

Considering the foregoing Exceptions:

IT IS HEREBY ORDERED that the plaintiff, Terry Minor Smith, appear and show cause on the 4th of MAY, 2020 at 10:00 o'clock a.m., ^{BEFORE JUDGE PITMAN} why the Exceptions filed by Defendant, Dolgencorp, LLC, improperly and incorrectly referred to as Dolgencorp, LLC d/b/a Dollar General, should not be maintained and that the Plaintiff's Petition for Damages, amendments and claims be dismissed at Plaintiff's sole cost.

Franklin, Louisiana this 24 day of Feb, 2020.


JUDGE JAMES MCCLELLAND DIV. D

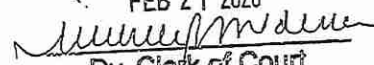
PLEASE SERVE:

Terry Minor Smith
Through her Attorney of record:
Thomas L. Mahfouz
Mahfouz Law Firm, L.L.C.
1201 Brashear Ave., FL. 2, Ste. 201
Morgan City, LA 70380

A FACSIMILE OF THIS PLEADING
WAS RECEIVED AND FILED ON

FEB 18 2020

RECEIVED AND FILED

FEB 21 2020

Dy. Clerk of Court

TERRY MINOR SMITH

CIVIL DOCKET NO. 134314 DIV. D

VERSUS

16TH JUDICIAL DISTRICT COURT
PARISH OF ST. MARY

DOLLAR GENERAL

STATE OF LOUISIANA

FILED: FEB 21 2020

MICHELLE FREDERICK

DEPUTY CLERK

**MEMORANDUM IN SUPPORT OF EXCEPTIONS OF NO
CAUSE OF ACTION AND LACK OF PROCEDURAL
CAPACITY ON BEHALF OF DOLGENCORP. LLC**

MAY IT PLEASE THE COURT:

Now into Court, through undersigned counsel, comes Dolgencorp, LLC, improperly and incorrectly referred to as Dolgencorp, LLC d/b/a Dollar General, who submits the following Memorandum in Support of its Exceptions.

I. FACTUAL AND PROCEDURAL BACKGROUND

On October 25, 2019, the Plaintiff, Terry Minor Smith, filed a Petition for Damages alleging she was involved in a trip and fall incident at a Dollar General Store located at 17700 Hwy. 182 Baldwin, Louisiana. Named as Defendant is a non-existent, improper and incorrect entity, Dollar General. On January 24, 2020, in a First Supplemental and Amending Petition for Damages, the Plaintiff amended the Petition for Damages to read Dolgencorp, LLC d/b/a Dollar General in place of Dollar General. However, Dolgencorp, LLC d/b/a Dollar General is also a non-existent entity. Further, Dolgencorp, LLC, which is the proper name of this entity, is an improper and incorrect Defendant as it is not the owner and operator of the Dollar General store located at 17700 Hwy. 182 Baldwin, Louisiana. Rather, DG Louisiana, LLC is the proper Defendant as this entity owns and operates the Dollar General store.

Accordingly, Dolgencorp, LLC asserts the following Exception:

II. PEREMPTORY EXCEPTION OF NO CAUSE OF ACTION

Dolgencorp, LLC asserts the Peremptory Exception of No Cause of Action as the Plaintiff's Petition for Damages does not correctly name the proper party Defendant. Under Louisiana law:

A cause of action, when used in the context of the peremptory exception, is defined as the operative facts that give rise to the plaintiff's right to judicially assert the action against the defendant. Everything on Wheels Subaru, Inc. v. Subaru South, Inc., 616 So.2d 1234, 1238 (La. 1993). The function of an exception that raises the objection of no cause of action is to test the legal sufficiency of the petition by determining whether the law affords a remedy on the facts alleged in the petition. Ramey v. DeCaire, 03-1299 (La. 3/19/04), 869

So.2d 114, 118. No evidence may be introduced to support or controvert the exception raising the objection of no cause of [Pg 7] action. LSA-C.C.P. art. 931. All facts pled in the petition must be accepted as true. Rebardi v. Crewboats, Inc., 04-0641 (La. App. 1st Cir. 2/11/05), 906 So.2d 455, 457. However, the jurisprudence recognizes an exception to this rule, which allows the court to consider [**11] evidence which is admitted without objection to enlarge the pleadings. Stephenson v. Nations Credit Fin. Services Corp., 98-1688 (La. App. 1st Cir. 9/24/99), 754 So.2d 1011, 1021. In reviewing the petition to determine whether a cause of action has been stated, the court must, if possible, interpret it to maintain the cause of action.

Here, the Plaintiff improperly and incorrectly named as Defendant a non-existent entity, Dolgencorp, LLC d/b/a Dollar General. Given that this entity does not exist, Plaintiff does not have a cause of action.

Additionally, Dolgencorp, LLC, which is the proper name of this entity, is an improper and incorrect Defendant as it is not the owner and operator of the Dollar General store located at 17700 Hwy. 182 Baldwin, Louisiana where the Plaintiff alleges her incident occurred. In sum, it has nothing to do with the store. Rather, DG Louisiana, LLC is the proper Defendant as this entity owns and operates the Dollar General store. Therefore, the Plaintiff cannot have a cause of action against Dolgencorp, LLC based on these facts and information.

III. DILATORY EXCEPTION OF LACK OF PROCEDURAL CAPACITY

Dolgencorp, LLC asserts the Dilatory Lack of Procedural Capacity as the Plaintiff's Petition for Damages names a non-existent entity as Defendant who does not have the procedural capacity to be sued. Dolgencorp, LLC d/b/a Dollar General does not have the procedural capacity to be sued as it does not exist.

"Lack of procedural capacity is a dilatory exception which tests a party's legal capacity to bring an action or have one brought against it." Wells v. Fandal, 13-620 (La.App. 5th Cir. 2014) 136 So.3d 83, 90. Further, La. Civ. Code of Pro. Art. 739 states, "... a domestic or foreign limited liability company, or a domestic, foreign or alien insurer has the procedural capacity to be sued in its corporate or company name."

Further, the proper and correct name for the owner and operator of the alleged store where the Plaintiff's incident allegedly took place is DG Louisiana, LLC and not Dolgencorp, LLC. Therefore, Dolgencorp, LLC does not have the procedural capacity to be sued as it is not the owner or operator of the Dollar General store.

IV. CONCLUSION

For the aforementioned reasons, Dolgencorp, LLC, improperly and incorrectly referred to as Dolgencorp, LLC d/b/a Dollar General, prays that these Exceptions be maintained and that Plaintiff's Petition for Damages, amendments and claims be dismissed at Plaintiff's sole cost.

Respectfully Submitted:

**COURINGTON, KIEFER, SOMMERS,
MARULLO & MATHERNE, L.L.C.**



KAYE N. COURINGTON (LSBA #18582)

DANIEL R. ESTRADA (LSBA # 26632)

616 Girod Street

New Orleans, LA 70130

Telephone: (504) 524-5510

Facsimile: (504) 524-7887

ATTORNEYS FOR DOLGENCORP, LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has been served upon counsel for all parties herein by depositing same in the United States mail, postage prepaid, or via telefax transmission, this 18th day of February, 2020.


DANIEL R. ESTRADA

RECEIVED AND FILED

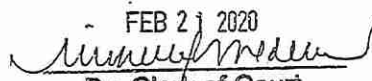
A FACSIMILE OF THIS PLEADING
WAS RECEIVED AND FILED ON

FEB 18 2020

{00518349.DOCX;2}

3

FEB 21 2020


Dy. Clerk of Court

Page 1 of 1

RECEIPT FOR SERVICES ISSUED
CLERK'S OFFICE, ST. MARY PARISH
16TH JUDICIAL DISTRICT COURT

TERRY MINOR SMITH
Vs. NO. 134314 DIV D
DOLGENCORP LLC DBA, ET AL

Date Service Issued: February 24, 2020

Dy. Clerk: mbf

This will acknowledge receipt from the St. Mary Parish Clerk of Court's Office for service as follows:

Rule to Show Cause with Exceptions issued for service on: TERRY
MINOR SMITH THROUGH HIS ATTORNEY, THOMAS L. MAHFOUZ
1201 BRASHEAR AVENUE, FL. 2, STE 201 MORGAN CITY, LA
70380

Date Received: _____

Time: _____

By: _____

Case Number: 134314 Transaction Date: 2/24/2020 Seq: 22 Page Sequence: 1

TERRY MINOR SMITH

16th JUDICIAL DISTRICT COURT

VS. NO. 134314 D

PARISH OF St. Mary

DOLLAR GENERAL

STATE OF LOUISIANA

**MOTION FOR LEAVE OF COURT TO FILE
SECOND SUPPLEMENTAL AND AMENDING PETITION**

NOW INTO COURT, through undersigned counsel comes plaintiff, TERRY MINOR SMITH, who move this Honorable Court for an order granting him leave to file this Second Supplemental and Amending Petition.

WHEREFORE, plaintiff specifically requests leave of court to file the attached Second Supplemental and Amending Petition.

BY ATTORNEY FOR PLAINTIFF:



THOMAS L. MAHFOUZ #8877
Mahfouz Law Firm, L.L.C.
1201 Brashear Avenue, Suite 201
Post Office Box 2526
Morgan City, LA 70381
(985) 384-1833

RECEIVED AND FILED

FEB 24 2020

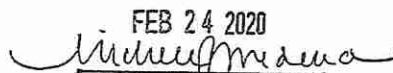

CLERK OF COURT

CERTIFICATE OF SERVICE

I do hereby certify that the foregoing has been served on counsel of record by placing copies of same in the United States mail, postage prepaid and properly addressed, on this the 19 day of Feb, 2020.


THOMAS L. MAHFOUZ #8877

RECEIVED AND FILED

FEB 24 2020

DY. CLERK OF COURT

TERRY MINOR SMITH

16th JUDICIAL DISTRICT COURT

VS. NO. 134314 D

PARISH OF St. Mary

DOLLAR GENERAL

STATE OF LOUISIANA

ORDER

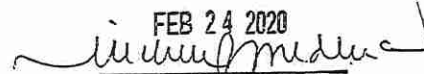
Considering the foregoing,

IT IS ORDERED that Plaintiff be allowed to file this Second Supplemental and Amending Petition.

ORDERED AND SIGNED in Franklin, St. Mary Parish, Louisiana on this 26 day of Feb, 2020.


DISTRICT JUDGE

RECEIVED AND FILED

FEB 24 2020

DY. CLERK OF COURT

TERRY MINOR SMITH

16th JUDICIAL DISTRICT COURT

VS. NO. 134314 D

PARISH OF St. Mary

DOLLAR GENERAL

STATE OF LOUISIANA

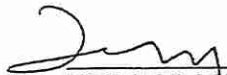
**PLAINTIFF'S Second SUPPLEMENTAL
AND AMENDING PETITION**

The Second Supplemental and Amending Petition of **TERRY MINOR SMITH**, Plaintiff herein, who desires to supplement and amend her Original Petition filed herein, in the following respects:

1. By amending the Petition in all places where the defendant's name is referred to as "DOLLAR GENERAL", and/or, "DOLGENCORP, LLC d/b/a DOLLAR GENERAL", to read "**DG LOUISIANA, LLC**."

WHEREFORE, Plaintiff, reiterating the prayer of her original Petition as set forth in length herein, prays that she be allowed to file this Second Supplemental and Amending Petition, and that Defendants be served with a copy of this Second Supplemental and Amending Petition and cited to answer same within the legal delays allowed by law, then, after the lapse of all legal delays and due proceedings had that there be judgment herein in favor of Plaintiff, **TERRY MINOR SMITH**, and against Defendants, **DG LOUISIANA, LLC**, in a reasonable amount to compensate them for the damages which she has sustained herein. Plaintiff further prays for such other legal and equitable relief.

BY ATTORNEY FOR PLAINTIFF:

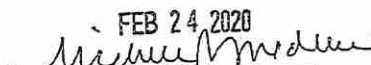


THOMAS L. MAHFOUZ #8877
Mahfouz Law Firm, L.L.C.
1201 Brashear Avenue, Suite 201
Post Office Box 2526
Morgan City, LA 70381
(985) 384-1833

PLEASE SERVE DEFENDANT WITH THE *ORIGINAL* PETITION, *FIRST* SUPPLEMENTAL AND AMENDING PETITION, and *SECOND* SUPPLEMENTAL AND AMENDING PETITION:

DG Louisiana, LLC
through its agent for service of process,
Corporation Service Company
501 Louisiana Avenue
Baton Rouge, LA 70802

RECEIVED AND FILED

FEB 24, 2020

DY. CLERK OF COURT

CERTIFICATE OF SERVICE

I do hereby certify that the foregoing has been served on counsel of record by placing copies of same in the United States mail, postage prepaid and properly addressed, on this the 19 day of Feb, 2020.



THOMAS L. MAHFOUZ #8877

RECEIVED AND FILED

FEB 24 2020

DY. CLERK OF COURT

CITATION

TERRYMINORSMITH

Vs. No. 134314 Div "D"

DG LOUISIANA, LLC, ET AL



STATE OF LOUISIANA

16th JUDICIAL DISTRICT COURT

PARISH OF ST. MARY

To: DG LOUISIANA, LLC THROUGH REGISTERED AGENT CORPORATION
SERVICE COMPANY 501 LOUISIANA AVENUE BATON ROUGE, LA 70802

You are hereby cited to comply with the demand contained in the petition, First and Second Supplemental and Amended Petition, a certified copy of which accompanies this citation or to file your answer or other pleading to said petition in the office of the Clerk of the 16th Judicial District Court in the St. Mary Parish Court House in the City of Franklin in said Parish within fifteen (15) days after the service hereof. Your failure to comply herewith will subject you to the penalty of entry of default judgment against you.

WITNESS MY HAND AND OFFICIAL SEAL OF OFFICE AT FRANKLIN,
LOUISIANA, FEBRUARY 27, 2020.

CLIFF DRESSEL
Clerk of Court
St. Mary Parish, Louisiana
16th Judicial District Court

Deputy Clerk of Court

SPACE BELOW FOR SHERIFF'S RETURN

FOOTER AREA

Case Number: 134314 Transaction Date: 2/27/2020 Seq: 17 Page Sequence: 1

Page 1 of 1

CLIFF DRESSEL
CLERK, ST. MARY PARISH
P. O. DRAWER1231
FRANKLIN, LOUISIANA 70538

Date Mailed: FEBRUARY 27, 2020

TO:
EAST BATON ROUGE PARISH SHERIFF
P. O. BOX 3277
BATON ROUGE, LA 70821-

TERRY MINOR SMITH

Vs. NO. 134314 DIV D

DG LOUISIANA, LLC, ET AL

The following listed items have been issued for service. After service is made, please send your return stating the type of service along with your statement of cost. If service can not be made, please state reason. Thank you for your prompt attention.

Citation with Original, First and Second Supplemental and Amended
Petitions issued for service on: DG LOUISIANA, LLC THROUGH
REGISTERED AGENT CORPORATION SERVICE COMPANY 501
LOUISIANA AVENUE BATON ROUGE, LA 70802

CLIFF DRESSEL
Clerk of Court
St. Mary Parish, Louisiana
16th Judicial District Court


Deputy Clerk of Court

Case Number: 134314 Transaction Date: 2/27/2020 Seq: 15 Page Sequence: 1

NOTICE OF SERVICE

TERRY MINOR SMITH

Vs. No. 134314 Div "D"

DG LOUISIANA, LLC, ET AL



STATE OF LOUISIANA

16th JUDICIAL DISTRICT COURT

PARISH OF ST. MARY

DANIEL R ESTRADA
COURINGTON, KIEFER & SOMMERS, LLC
P. O. BOX 2350
NEW ORLEANS, LA 70176

Pleading Served: RULE TO SHOW CAUSE - MAY 4, 2020

Party Served: TERRY MINOR SMITH

Date Served: FRIDAY, FEBRUARY 28, 2020

Type of Service: DOMICILIARY - DEPARTMENTAL JAMIE DULANEY

Notified on: March 5, 2020

CLIFF DRESSEL
Clerk of Court
St. Mary Parish, Louisiana
16th Judicial District Court

Betty B. Haydel

Deputy Clerk of Court

FOOTER AREA

Case Number: 134314 Transaction Date: 3/5/2020 Seq: 10 Page Sequence: 1

RULE TO SHOW CAUSE

RETURN

TERRY MINOR SMITH

Vs. No. 134314 Div "D"

DOLGENCORP LLC DBA, ET AL



STATE OF LOUISIANA

16th JUDICIAL DISTRICT COURT

PARISH OF ST. MARY

To: TERRY MINOR SMITH THROUGH HIS ATTORNEY, THOMAS L. MAHFOUZ
1201 BRASHEAR AVENUE, FL. 2, STE 201 MORGAN CITY, LA 70380

By virtue of an order, issued in the above numbered and entitled matter,
out of the Hon. 16th Judicial District Court, bearing date **February 24, 2020**.

You are hereby ordered to show cause, if any you have, in open Court, in
the St. Mary Courthouse, Main Street, Franklin, Louisiana, at **10:00 A.M.** on
MAY 4, 2020.

WHY

The Exceptions filed by Defendant, Dolgencorp, LLC, improperly and
incorrectly referred to as Dolgencorp, LLC d/b/a Dollar General, should not
be maintained and that the Plaintiff's Petition for Damages, amendments
and claims be dismissed at Plaintiff's sole cost.

In accordance with the allegations and prayer for the issuance of this rule,
a true and correct attested copy whereof accompanies this rule and is served
herewith.

WITNESS MY HAND AND OFFICIAL SEAL OF OFFICE AT FRANKLIN,
LOUISIANA, FEBRUARY 24, 2020.



CLIFF DRESSEL
Clerk of Court
St. Mary Parish, Louisiana
16th Judicial District Court

Michelle B. Andrews

Deputy Clerk of Court

**NOTICE: NO CELL PHONES, IPADS, RECORDING, OR OTHER ELECTRONIC
COMMUNICATION DEVICES OR CAMERAS ARE ALLOWED ON COURTROOM FLOOR.
EXCEPTION: COURT OFFICERS AND STAFF.**

VOICE OF CIVILIZATION () ORDER () OTHER
VOICE (SPACE BELOW FOR SHERIFF'S RETURN)
SHERIFF'S OFFICE () CIVILIAN () SHERIFF ()
NAME OF SHERIFF: NUMBER SHERIFF'S () DATE () MOBILE ()
RETURNED TO CALL FOR SERVICE ()
OTHER RETURN
SHERIFF TO FURNISH WORD () NO OTHER COMMENTS ()
DO NOT WRITE IN THIS SPACE
RECEIVED
MAR 04 2020
CLIFF DRESSEL
CLIFF DRESSEL
CLIFF DRESSEL

CLIFF DRESSEL CLERK OF COURT

ST. MARY PARISH, LA

[ORIGINAL]

ST. MARY PARISH: SHERIFF OFFICE

RECEIVED: By: Detective Pelt 2:38 10/20/20
SERVED: 2:38 10/20/20
PERSONAL ☒
DOMESTIC VIOLENCE ☒ ON St. Mary's Parish Sheriff's Office Case 1459
UNABLE TO LOCATE: MOVED () NO SUCH ADDRESS ()
OTHER REASON _____
RECEIVED TO LATE FOR SERVICE ()
TYPE OF SERVICE: WITNESS SUBPOENA () RULE () NOTICE ()
SUBPOENA DUCES TECUM () CITATION & PETITION ()
NOTICE OF SEIZURE () POSTING () NOTICE TO VACATE ()
NOTICE OF GARNISHMENT () ORDER () OTHER _____

LOCATION: _____
C.A. STS. FEES \$30.00 MILEAGE \$25.00 TOTAL \$55.00
DEFENSE By: Detective Pelt 2:38 10/20/20

NOTICE OF FIXING
CASE FOR TRIAL

TERRYMINORSMITH

Vs. No. 134314 Div "D"

DOLGENCORP LLC DBA, ETAL



STATE OF LOUISIANA

16th JUDICIAL DISTRICT COURT

PARISH OF ST. MARY

DANIEL R ESTRADA
COURINGTON, KIEFER & SOMMERS, LLC
P. O. BOX 2350
NEW ORLEANS, LA 70176

THOMAS L. MAHFOUZ
MAHFOUZ LAW FIRM, LLC
P.O. BOX 2526
MORGAN CITY, LA 70381-2526

NOTICE IS HEREBY GIVEN that the above entitled and numbered matter has been fixed for trial on the Exceptions filed on behalf of Dolgencorp, LLC on MAY 4, 2020 at 10:00 A.M. in Franklin, Louisiana before Judge LEWIS H. PITMAN, JR. as a --- fixing.

Uniform Rules requires that you file for all exceptions and motions a pre-trial memorandum at least fifteen (15) calendar days before the hearing. Opposition memorandums shall be filed at least eight (8) calendar days before the hearing. Any reply memorandums must be received by Judge and all parties before 4:00 p.m. on a day that allows one (1) full work day before the hearing.

All motions for summary judgment must comply with CCP Article 966-B.

Failure to file and distribute the memorandum outlined shall subject said party to assessment of costs by the Court or to be otherwise disciplined.

It is the obligation of the attorney for plaintiff to notify the Docket Clerk and the Trial Judge when a case is settled or continued by mutual agreement.

WITNESS MY HAND AND OFFICIAL SEAL OF OFFICE AT FRANKLIN, LOUISIANA, FEBRUARY 24, 2020.

CLIFF DRESSEL
Clerk of Court
St. Mary Parish, Louisiana
16th Judicial District Court

Deputy Clerk of Court

NOTICE: NO CELL PHONES, I-PADS, RECORDING, OR OTHER ELECTRONIC COMMUNICATION DEVICES OR CAMERAS ARE ALLOWED ON COURTROOM FLOOR. EXCEPTION: COURT OFFICERS AND STAFF.

FOOTER AREA

Case Number: 134314 Transaction Date: 2/24/2020 Seq: 21 Page Sequence: 1

CITATION

TERRY MINOR SMITH

Vs. No. 134314 Div "D"

DG LOUISIANA, LLC, ET AL



STATE OF LOUISIANA

16th JUDICIAL DISTRICT COURT

PARISH OF ST. MARY

To: DG LOUISIANA, LLC THROUGH REGISTERED AGENT CORPORATION
SERVICE COMPANY 501 LOUISIANA AVENUE BATON ROUGE, LA 70802

You are hereby cited to comply with the demand contained in the petition, First and Second Supplemental and Amended Petition, a certified copy of which accompanies this citation or to file your answer or other pleading to said petition in the office of the Clerk of the 16th Judicial District Court in the St. Mary Parish Court House in the City of Franklin in said Parish within fifteen (15) days after the service hereof. Your failure to comply herewith will subject you to the penalty of entry of default judgment against you.

WITNESS MY HAND AND OFFICIAL SEAL OF OFFICE AT FRANKLIN,
LOUISIANA, FEBRUARY 27, 2020.

CLIFF DRESSEL
Clerk of Court
St. Mary Parish, Louisiana
16th Judicial District Court

Deputy Clerk of Court

SPACE BELOW FOR SHERIFF'S RETURN

I made service on the named party through the:

☒ Personal *@ 920M* ☐ Legal Dept.
☐ Domiciliary ☐ Corp. Service Agent

MAR 11 2020

by tendering a copy of this document to
☒ Emily Fields ☐ Rhonda Weldon
☐ Other:

ELEANOR STEWART 0769

East Baton Rouge Sheriff's Office

RECEIVED

MAR 16 2020

CLIFF DRESSEL CLERK OF COURT
ST. MARY PARISH, LA

[ORIGINAL]

NOTICE OF SERVICE

TERRY MINOR SMITH

Vs. No. 134314 Div "D"

DG LOUISIANA, LLC, ET AL



STATE OF LOUISIANA

16th JUDICIAL DISTRICT COURT

PARISH OF ST. MARY

THOMAS L. MAHFOUZ
MAHFOUZ LAW FIRM, LLC
P.O. BOX 2526
MORGAN CITY, LA 70381-2526

Pleading Served: CITATION AND FIRST AND SECOND SUPPLEMENTAL AND
AMENDED PETITION

Party Served: DG LOUISIANA, LLC

Date Served: WEDNESDAY, MARCH 11, 2020

Type of Service: PERSONAL

Notified on: March 17, 2020

CLIFF DRESSEL
Clerk of Court
St. Mary Parish, Louisiana
16th Judicial District Court

Bucky B. Haydel

Deputy Clerk of Court

FOOTER AREA

Case Number: 134314 Transaction Date: 3/17/2020 Seq: 6 Page Sequence: 1

TERRY MINOR SMITH

16TH JUDICIAL DISTRICT COURT

VERSUS

PARISH OF ST. MARY

DG LOUISIANA, LLC

STATE OF LOUISIANA

NO.: 134314 DIVISION "D"

FILED: APR 21 2020

JENNIFER R. SPLANE
DEPUTY CLERK

AFFIRMATIVE DEFENSES AND ANSWER TO PLAINTIFF'S, TERRY MINOR SMITH, ORIGINAL PETITION FOR DAMAGES, SUPPLEMENTAL AND AMENDING PETITION FOR DAMAGES AND SECOND SUPPLEMENTAL AND AMENDING PETITION FOR DAMAGES ON BEHALF OF DG LOUISIANA, LLC

NOW INTO COURT, through undersigned counsel, comes Defendant, DG Louisiana, LLC, improperly and incorrectly named and referred to as Dollar General and Dolgencorp, LLC, and who submits the following Affirmative Defenses and Answer to Plaintiff's Original Petition for Damages and amendments:

1.

It is admitted that Defendant is a foreign limited liability company authorized to do and doing business in the State of Louisiana. The remaining allegations contained in Paragraph 1 of the Original Petition for Damages and amendments are denied for lack of information to justify a belief therein.

II.

The allegations contained in Paragraph II of the Original Petition for Damages and amendments are denied.

III.

The allegations contained in Paragraph III of the Original Petition for Damages and amendments are denied.

IV.

The allegations contained in Paragraph IV of the Original Petition for Damages and amendments are denied.

V.

The allegations contained in Paragraph V of the Original Petition for Damages and amendments are denied.

VI.

The allegations contained in Paragraph VI of the Original Petition for Damages and amendments are denied.

VII.

The allegations contained in Paragraph VII of the Original Petition for Damages and amendments and subparts (a) through (h) are denied.

VIII.

The allegations contained in Paragraph VIII of the Original Petition for Damages and amendments are denied.

IX.

The allegations contained in Paragraph IX of the Original Petition for Damages and amendments and subparts (a) through (g) are denied.

X.

The allegations contained in the "Wherefore" Paragraph of the Original Petition for Damages and amendments are denied.

AFFIRMATIVE DEFENSES

AND NOW, for further answer to Plaintiff's Original Petition for Damages and amendments, Defendant, DG Louisiana, LLC, improperly and incorrectly named and referred to as Dollar General and Dolgencorp, LLC, avers as follows:

FIRST DEFENSE

Plaintiff's Original Petition for Damages and amendments fail to state a claim and/or cause and/or right of action upon which relief can be granted.

SECOND DEFENSE

The claims asserted herein, in whole or part, are prescribed and/or perempted and/or are barred by the applicable statute of limitations, by prescription, and by the *Doctrine of Laches*.

THIRD DEFENSE

Defendant affirmatively denies that the alleged injuries and/or alleged damages were caused by any conduct of Defendant, whether by omission, commission, or on the basis of strict liability, negligence, vicarious liability, assault, or otherwise.

FOURTH DEFENSE

It is further averred that in the event it is found that the injury and/or damages claimed

herein are or were the result of (whether in whole and/or in part), pre-existing/unrelated disabilities and/or injuries and/or illnesses or any aggravation thereof, for which Defendant is not and was not responsible, then, in that event, Defendant avers that it is entitled to a reduction of damages by reason of such pre-existing illnesses and/or injuries and/or disabilities.

FIFTH DEFENSE

Defendant specifically avers the failure to mitigate damages, as a consequence of which any recovery herein is either totally barred and/or, in the alternative, must be reduced. In the further alternative, Defendant avers that the claims for damages herein have not accrued, are purely speculative, uncertain and contingent.

SIXTH DEFENSE

Defendant asserts that the Plaintiff's injuries, if any, were caused by a pre-existing or post-developing unrelated medical condition, disease, illness or infection for which this Defendant is not responsible.

SEVENTH DEFENSE

Defendant asserts that the injuries alleged to have been sustained by Plaintiff was the result of an intervening or supervening cause.

EIGHTH DEFENSE

Defendant specifically pleads that the conditions alleged herein were caused by the negligent, wanton, careless or unreasonable conduct of third-parties for whom Defendant is not and was not responsible.

NINTH DEFENSE

Defendant specifically pleads herein the defenses available under the Louisiana Merchant Liability Statute, La. R.S. 9:2800.6 et seq. and the Louisiana Civil Code.

TENTH DEFENSE

Defendant specifically pleads herein the defenses available under the La. Civ. Code Articles 2317, 2317.1 and 2322 and the Louisiana Civil Code.

ELEVENTH DEFENSE

Defendant specifically pleads herein the doctrine of comparative fault, as contained in La. Civ. Code Art. 2323, and is entitled to a reduction in the amount for which it may be held liable

in judgment in accordance with the degree or percentage of fault and/or negligence attributable to plaintiff or to any and all other persons and legal entities.

TWELTH DEFENSE

Defendant specifically pleads herein La. Civ. Code Art. 2324 and denies that it is solidarily liable with any other person, party or third-party. Therefore, Defendant shall not be liable for more than its degree of fault and shall not be solidarily liable with any other person for damages attributable to the fault of such other person, including the person suffering injury, death, or loss, regardless of such other person's insolvency, ability to pay, degree of fault, immunity by statute or otherwise, including but not limited to immunity as provide by R.S. 23:1032, or that the other person's identity is not known or reasonably ascertainable.

THIRTEENTH DEFENSE

The condition complained of by the Plaintiff was "open and obvious."


FOURTEENTH DEFENSE

Defendant requests a trial by jury.

WHEREFORE, Defendant, DG Louisiana, LLC, improperly and incorrectly named and referred to as Dollar General and Dolgencorp, LLC, respectfully prays that its Answer and Affirmative Defenses to Plaintiff's, Terry Minor Smith, Original Petition for Damages and amendments be deemed good and sufficient and that, after due proceedings, there be judgment rendered in its favor and against Plaintiff, dismissing Plaintiff's Original Petition for Damages and amendments, at her cost and with prejudice, and for all other general and equitable relief.

Respectfully Submitted:

COURINGTON, KIEFER, SOMMER,
MARULLO & MATHERNE, L.L.C.

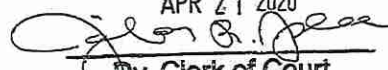

KAYE N. COURINGTON (LSBA #18582)
DANIEL R. ESTRADA (LSBA # 26632)
616 Girod Street
New Orleans, LA 70130
Telephone: (504) 524-5510
Facsimile: (504) 524-7887
ATTORNEYS FOR DEFENDANT,
DG LOUISIANA, LLC

RECEIVED AND FILED

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APR 21 2020


Dy. Clerk of Court

Case Number: 134314 Transaction Date: 4/21/2020 Seq: 5 Page Sequence: 4

CERTIFICATE OF SERVICE

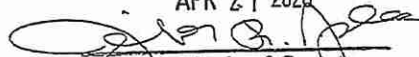
I hereby certify that a copy of the above and foregoing has been served upon counsel for all parties herein by depositing same in the United States mail, postage prepaid, or via telefax transmission, this 21st day of April, 2020.



Daniel R. Estrada

RECEIVED AND FILED

APR 21 2020



Dy. Clerk of Court

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TERRY MINOR SMITH

VERSUS

DG LOUISIANA, LLC

16TH JUDICIAL DISTRICT COURT

PARISH OF ST. MARY

STATE OF LOUISIANA

NO.: 134314 DIVISION "D"

FILED: APR 24 2020

JENNIFER R. SPLANE

DEPUTY CLERK

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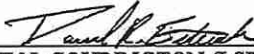
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Respectfully Submitted:

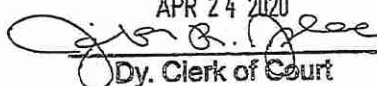
COURINGTON, KIEFER, SOMMER,
MARULLO & MATHERNE, L.L.C.


KAYE N. COURINGTON (LSBA #18582)
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Facsimile: (504) 524-7887
ATTORNEYS FOR DEFENDANT,
DG LOUISIANA, LLC

A FACSIMILE OF THIS PLEADING
WAS RECEIVED AND FILED ON
APR 21 2020

RECEIVED AND FILED

APR 24 2020


Dy. Clerk of Court

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has been served upon counsel for all parties herein by depositing same in the United States mail, postage prepaid, or via telefax transmission, this 21st day of April, 2020.



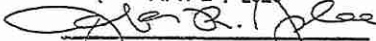
Daniel R. Estrada

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WAS RECEIVED AND FILED ON

APR 21 2020

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APR 24 2020



Dy. Clerk of Court

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